

PROPOSAL BY SOUTH AFRICA

Proposed amendment of Article 26

THAT Article 26 be amended by

(a) the substitution in paragraph 4 (of the English version of the "Abbreviated Compilation, etc.") for the expression "no sufficient basis for a prosecution under this Statute" of the expression "not a *prima facie* case";

(b) the insertion of the following paragraph after paragraph 4 (of the English version of the "Abbreviated Compilation, etc."):

"4bis. A decision referred to in sub-paragraph 4(c) shall only become effective upon it having been confirmed by the Presidency under paragraph 5 of this Article.";

(c) the addition at the end of paragraph 5 (of the English version of the ILC's proposed text*) of the following words:

": Provided that the Prosecutor, any suspect and the complainant State or the Security Council (as the case may be), shall be informed of such review proceedings or confirmation proceedings [*within the contemplation of subparagraph 4(c)* of the "Abbreviated Compilation" text*] and shall be entitled to submit his/her/their/its viewpoints with regard thereto which viewpoints shall be considered by the Presidency in coming to its decision".

[*Note: In respect of para 5 of Article 26, the ILC text is preferred. However, it does not refer to subpara 4(c). It is intended that the ILC text in respect of para 5 should be used in conjunction with the Abbreviated Compilation text in respect of paras 4 and 4bis].